

THE LEGISLATURE – THE INSTITUTION

Basic Legislative Structure and Functions

OVERVIEW

The legislature is one of the three branches of state government. It is the policymaking branch and makes policy by enacting laws, but it also oversees the implementation of laws and conducts studies necessary to enact laws. Its structure and powers are established primarily by Article III of the Constitution of Louisiana. The constitution also gives the governor certain powers related to lawmaking, such as submission of the executive budget and veto of bills.

The legislature is a continuous body. It is comprised of the House of Representatives and the Senate. The constitution provides for the number of members and their terms of office, for legislative rules, and for legislative officers.

Legislative sessions are also governed by the constitution. These include the regular sessions, with general regular sessions in even-numbered years and restricted regular sessions in odd-numbered years, extraordinary or special sessions, organizational sessions (which occur every four years when members take office for a regular term), emergency sessions, and veto sessions.

Legislative staff agencies serving the House include House Legislative Services, which provides research, bill drafting, committee staffing, library services, and administrative services for the House; the staff of the Speaker's Office, which includes not only his personal staff, but also the House Accounting Office, the House Public Information Office, the House Human Resources Office, and Property Control and Purchasing; the House Clerk's Office which processes legislation, maintains official legislative records, schedules and gives notice of House committee meetings, provides audio-visual operations, operates the House website and switchboard, and provides other House services; the Sergeant at Arms, whose office provides security, transportation, and emergency medical services; and other House offices such as the Speaker Pro Tempore's office and caucus and delegation offices which assist the members with various services, but particularly with aiding constituents, and acting as liaison with other government offices.

The Legislative Fiscal Office provides budget research and fiscal notes to the House and the Senate. The Legislative Auditor and his staff also serve both houses. In addition to the office's post audit function, it prepares actuarial notes for retirement bills and certain fiscal notes, performs program evaluations, and reviews performance measures for program budgets of agencies.

The Louisiana State Law Institute is the official revisor of statutes for the state and conducts scholarly legal research.

Certain committees have administrative responsibilities. The Legislative Budgetary Control Council, created by statute, governs the administration and expenditure of the funds of both houses and of legislative agencies. It reviews budget requests of legislative agencies and must approve them for inclusion in the legislative appropriation bill. It also regulates other fiscal matters for the legislature.

The House Executive Committee advises the House Speaker on various matters concerning operation of the House and also establishes the annual vouchered allotment for House members to be used for expenses of office.

The House Legislative Services Council is the governing committee of House Legislative Services.

The Legislative Audit Advisory Council has certain duties relative to the Legislative Auditor and his staff.

The Joint Legislative Committee on the Budget has certain administrative authority relative to the Legislative Fiscal Office.

THE LEGISLATURE – POWERS, COMPOSITION, SESSIONS

A Summary of Major Constitutional Provisions Governing the Legislature

LEGISLATIVE POWERS

The Louisiana Constitution establishes the legislative branch as one of the three coordinate branches of state government. Article II, Section 1 provides for three separate branches of state government: legislative, executive, and judicial. Article III, Section 1(A) vests the legislative power of the state in the legislature, consisting of the Senate and the House of Representatives. The legislature is responsible for determining general policy for the state and its residents through the enactment of laws. The power to enact laws is subject to the substantive and procedural limitations of the federal and state constitutions. Oversight of the actions of the executive branch in administering state programs is also vested in the legislature. This power, closely related to the power to make laws, is exercised in order to assure that legislative policy and intent are carried out. Review of administrative rules of executive branch agencies by legislative oversight committees is an important exercise of this authority. The legislature and its committees also have the power to gather information and make such investigations as may be needed to enact laws.

Although the executive branch of state government is responsible for the implementation of the constitution and laws, the governor, as the chief executive officer of the state, exercises certain legislative powers. The constitution (*Const. Art. IV, §5(B)*) directs the governor, at the beginning of each regular session and at other times, to make reports and recommendations and to give information to the legislature concerning the affairs of state, including the complete financial condition of the state. Constitution Article IV, Section 5(D) requires the governor to submit to the legislature an operating budget and a capital budget for each fiscal year. The governor is authorized to call the legislature into special session. Additionally, he may veto any bill or any item in an appropriation bill, though the legislature may override a veto by a vote of two-thirds of the elected membership of each house.

CONTINUOUS BODY

The constitution (*Const. Art. III, §1(B)*) makes the legislature a continuous body during the time for which its members are elected; however, a bill or resolution not finally passed in any session is withdrawn from the files of the legislature. This continuous authority permits standing committees of the legislature to meet during the interim between sessions.

COMPOSITION

Article III, Section 3 of the constitution specifies that the number of members of the legislature shall be provided by law, but establishes the maximum number of senators at 39 and the maximum number of members of the House of Representatives at 105. Representation in

both houses of the legislature is based on population in accordance with state constitutional mandate (*Const. Art. III, §6*) and U.S. Supreme Court decisions. The constitution provides for single-member districts exclusively. The legislature is required to reapportion the representation in each house by the end of the year following the year in which the state's population is reported to the president of the United States for each decennial federal census, on the basis of total population shown by such census.

TERMS AND VACANCIES

Legislators are elected for four-year terms and take office on the same day as the governor and other statewide elected officials. The next term of the legislature begins on January 9, 2012, at 10:00 a.m. A constitutional amendment adopted by the voters in October of 1995, limits the number of consecutive terms a person may serve in each house of the legislature and provides that no person who has been elected to serve as a member of the legislature for more than two and one-half terms in three consecutive terms may be elected for the succeeding term. The limitation applies to service during a term of office that began on or after January 8, 1996 (*Const. Art. III, §4(E)*).

In *Deculus v. Welborn*, 2007-C-1888, the Supreme Court examined an objection to the candidacy of Senator Cleo Fields based on the term limits provision in the constitution. The Court held that Senator Fields was not qualified to run for re-election because he had been elected to serve the unexpired portion of a term and was thereafter elected to serve two succeeding terms. The Court measured the unexpired portion that Senator Fields was elected to serve from the date that the election results were promulgated, in that case on December 18, 1997, and concluded that he had been elected to serve more than one-half of the unexpired term, which ended on January 10, 2000. In reaching its conclusion, the Court rejected Senator Fields' argument that the unexpired portion he was elected to serve should have been measured from the day he took his oath of office before the Senate, as provided by R.S. 18:601(B). The Court did not take 601(B) into account. It found that the statute was irrelevant because the statute did not address the date on which Senator Fields had been elected to serve.

A vacancy in the legislature can be filled only by the electors of the district in which the vacancy occurred for the remainder of the term during which the vacancy occurred (*Const. Art. III, §4(D)*).

OFFICERS

The officers of each house of the legislature are elected at the beginning of each term to serve for four-year terms. The House of Representatives elects from among its members a Speaker and Speaker Pro Tempore. It also elects its chief clerical officer, the Clerk of the House, who is not a member. The Senate elects its presiding officer, the President of the Senate, from its membership and also elects a President Pro Tempore from its membership. It also selects its chief clerical officer, the Secretary of the Senate, who is not a member. Rules

SESSIONS OF THE LEGISLATURE

of each house provide for the election of these officers (*Const. Art. III, §7(C)*).

Legislative sessions are governed by the provisions of Article III, Section 2 of the constitution.

Every four years, at 10:00 a.m. on the day members take office, an **organizational session** is convened, primarily for judging members' qualifications and elections, taking the oath of office, organizing the two houses, and selecting officers. The session is limited to three legislative days; no matter intended to have the effect of law may be introduced.

Regular sessions in even-numbered years convene at noon on the second Monday in March. The legislature may meet for not more than 60 legislative days (a calendar day on which either house is in session) during a period of 85 calendar days. These sessions are *general* in nature, but no measure levying or authorizing a new tax or increasing an existing tax by the state or a statewide political subdivision, or dealing with tax exemptions, exclusions, deductions or credits, may be introduced or enacted.

Regular sessions in odd-numbered years convene at noon on the second Monday in April. The legislature may meet for not more than 45 legislative days during a period of 60 calendar days. These sessions are *restricted* sessions. Legislation may be considered if its object is to enact the general appropriation bill or other appropriations; enact the capital budget; levy a new tax or increase an existing tax; authorize, increase, decrease, or repeal a fee; dedicate revenue; legislate with regard to tax exemptions, exclusions, deductions, reductions, repeals, or credits; or legislate with regard to issuance of bonds. In addition, each member may prefile up to five bills that are not within these restrictions and may prefile or introduce any number of bills whose object is to enact a local or special law which is required to be and which has been advertised as provided in Article III, Section 13 and is not prohibited by Article III, Section 12. (See the chart, *Annual Regular Legislative Sessions – Key Constitutional Provisions*, on page E-2.)

Extraordinary sessions may be convened by the governor at other times and must be convened by the presiding officers of both houses upon petition of a majority of the elected members of each house. An extraordinary session may not exceed 30 calendar days, and the power to legislate is limited to the objects specified in the proclamation or call for the session issued by the governor or the presiding officers, as the case may be.

Emergency sessions may be convened by the governor without prior notice or proclamation in the event of a public emergency caused by epidemic, enemy attack, or public catastrophe.

Constitution Article III, Section 18(C) requires the legislature to meet in **veto session** on the fortieth day following final adjournment of the most recent session, to consider all bills vetoed by the governor (or on the succeeding Monday if the fortieth day falls on Sunday). A veto session is limited to five calendar days, and may be finally adjourned prior to the end of the fifth day with approval of two-thirds of the elected members of each house. No veto session is held if a majority of the elected members of either house declare in writing that a veto session is unnecessary and the declaration is received by the presiding officer of the respective houses at least five days prior to the day on which such session would convene. A veto session has never been held.

PRIVILEGES AND IMMUNITIES

A member of the legislature is privileged from arrest, except for felony, during his attendance at sessions and committee meetings of his house and while going to and from them. No member may be questioned elsewhere for any speech in either house (*Const. Art. III, §8*).

CONFLICT OF INTEREST

Article III, Section 9 of the constitution provides that legislative office is a public trust, and every effort to realize personal gain through official conduct is a violation of that trust. It requires the legislature to enact a code of ethics for members of the legislature. (See also *Const. Art. X, §21, and R.S. 42:1101 et seq.* regarding a code of ethics for all public officials and employees.)

QUORUM, ATTENDANCE, JOURNAL, AND ADJOURNMENT

The constitution provides that a majority of the elected members of each house (53 members of the House of Representatives and 20 members of the Senate) is required to form a quorum to transact business. A smaller number may adjourn from day to day and may compel attendance of absent members. Each house is required to keep a journal of its proceedings and have it published immediately after the close of each session. The *Journal* of each house is required to accurately reflect the proceedings, including all record votes. When the legislature is in session, neither house is allowed to adjourn for more than three days or to another place without the consent of the other house.

LEGISLATIVE STAFF

Legislative Staffing Agencies and Their Functions

The House has a full-time permanent staff, which includes House Legislative Services, the office of the Clerk, the House Sergeant at Arms, and the office of the Speaker. The House Public Information Office, the House Office of Human Resources, and House Accounting, as well as Property Control and Purchasing, are staff units within the Speaker's Office. In addition, there are other agencies which serve both the House and the Senate. Relevant staff resources and services are discussed in each of the other major sections of this guide. (See particularly *Information Resources* beginning on page G-1.)

HOUSE LEGISLATIVE SERVICES

The nonpartisan House Legislative Services (HLS) staff serves all house members and committees and reports to the House Legislative Services Council (composed of the Speaker, Speaker Pro Tempore, nine members appointed by the Speaker (one from each congressional district and two at large), and the House Clerk). The council employs an executive director to supervise and direct the functions of HLS. The HLS staff drafts legislation and the accompanying digests of legislation, provides research services, staffs committees, prepares floor and committee amendments to legislation, conducts studies and briefings, provides fiscal reports and analyses, and prepares highlights and summaries of the session. It also provides library reference services and handles much of the publication, copying, record keeping, and other administrative work of the House.

HLS Research Divisions ~ Committees	
<i>Division</i>	<i>Committees</i>
Governmental Affairs	House & Governmental Affairs; Education; Retirement; Municipal, Parochial & Cultural Affairs
Commercial Regulation	Commerce; Health & Welfare; Insurance; Labor & Industrial Relations
Legal	Civil Law & Procedure; Judiciary; Administration of Criminal Justice
Fiscal	Appropriations; Ways & Means
Resource & Infrastructure	Natural Resources & Environment; Agriculture, Forestry, Aquaculture & Rural Development; Transportation, Highways & Public Works

HLS is organized into five **research divisions**: Governmental Affairs, Commercial Regulation, Legal, Fiscal, and Resource and Infrastructure, as well as Administrative Services and the David R. Poynter Legislative Research Library. Legislative analysts and attorneys in each research division staff the committees within the division and draft legislation and provide research and analysis concerning the subject matter of the committees within the division for any member of the House and for the division's committees. Each division is supervised by a division director who is responsible for the assignment of workload within that division and reviews much of the work of the division staff. Committees within each of the five divisions are shown in the graphic on page A-7.

Administrative Services provides clerical assistance for the massive amount of typing, proofreading, printing, and other clerical work necessary for the operation of the House. House Docket maintains files of all bills and adopted amendments from current and past legislative sessions. Administrative Services is responsible for engrossing and enrolling all House bills, resolutions, and other legislative instruments.

House Legislative Services maintains the **David R. Poynter Legislative Research Library**, a professional research library which provides reference services to legislators and staff of both the House and Senate and to other legislative offices. It maintains files on legislative issues, a comprehensive collection of legislative research reports, directories, and an extensive periodical and newspaper collection related to legislative issues and matters of public interest. The library operates the PULS line, a toll-free telephone line, to advise the public on the status of any legislative instrument. The library also staffs special information lines to respond to questions of House members which are available only to House members and their staffs.

SPEAKER'S OFFICE

The Speaker has a small staff to assist him in his duties as presiding officer. Also under the direct supervision of the Speaker are:

- ♦ **The House Accounting Office**, which is responsible for accounting functions, compensation of members and staff, including legislative assistants, payments and reimbursements for district office expenses, and related functions.
- ♦ **The House Office of Public Information**, which is responsible for assisting House members and staff with public information and media relations. Office services for the House and its members include producing publications that increase knowledge of and promote public involvement in the legislative process, acting as liaison with schools and community organizations, and developing audio, video, and print communication materials for legislator and staff use concerning media communication.

- ♦ **The House Human Resources Office**, which was established to centralize all human resource and personnel functions of the House and is responsible for staffing of the organization, including employee recruitment and selection, as well as orientation of new employees, employee training and development, compensation, incentives and benefits administration, development of personnel policies and procedures, record keeping, and ensuring adherence to all state and federal laws and rules and regulations governing personnel and labor issues.
- ♦ **Property Control and Purchasing**, which is responsible for the acquisition of furniture, equipment, and telephones and for inventory of house property.

HOUSE CLERK'S OFFICE

The Clerk of the House is the constitutional clerical officer of the House of Representatives, the parliamentarian, and the custodian of all records of the House. The House Clerk's Office is staffed to assist the Clerk in processing legislation, receiving reports of standing committees, maintaining and publishing a journal of proceedings, and publishing the Legislative and House Calendars. This office handles matters relative to the scheduling of committee meetings throughout the year and providing notice of such meetings. The Clerk's office provides audio-visual services for the House, maintains the House website on the Internet, and operates the House switchboard. The Clerk is also responsible for processing House members' interim emergency appropriation ballots as well as all other ballots for interim votes and for promulgating and receiving House members' annual financial disclosure reports and forwarding them to the Board of Ethics.

SERGEANT AT ARMS

The Sergeant at Arms is an officer of the House appointed by the Speaker. The Sergeant at Arms' office handles security and transportation matters for the House and also includes staff trained to handle medical emergencies in the Capitol.

OTHER OFFICES

Other staff are available to assist House members in the Speaker Pro Tempore's Office and in the various caucus and delegation offices, such as the Acadiana Delegation, Black Caucus, Democratic Caucus, Independent Caucus, Jefferson Delegation, Orleans Delegation, Republican Delegation, Rural Caucus, and Women's Caucus. These offices help members in a variety of ways, but particularly with constituent services and with obtaining information and assistance from state, local, and federal offices.

LEGISLATIVE FISCAL OFFICE

The Legislative Fiscal Office was established to provide the legislative branch with its own independent fiscal staff to advise both houses of the legislature on all financial matters. The Legislative Fiscal Officer, elected by the majority vote of the members of both the House and Senate, administers and directs the work of the fiscal office. The

primary responsibilities of the fiscal office include: review and analysis of the proposed Executive Budget; program review; preparation of fiscal notes and review of legislation with projections of costs and revenues associated with the proposed laws; long and short-range revenue projections; and review of performance-based budgeting in the executive branch. (Also see *Joint Legislative Committee on the Budget* beginning on page A-12.)

LEGISLATIVE AUDITOR'S OFFICE

The Legislative Auditor's office is a constitutionally created office (*Const. Art. III, §11*). The Legislative Auditor serves as fiscal advisor to the legislature and performs duties related to auditing and fiscal records of the state, its agencies, and political subdivisions. The auditor prepares a written statement annually on the financial condition of the state treasury. He also prepares actuarial notes for legislation affecting public retirement systems and certain fiscal notes. His office prepares performance audits and reviews the performance data used by state agencies and departments for performance budgeting. The auditor is elected by a majority of the elected members of each house. (See *Legislative Audit Advisory Council* beginning on page A-12.)

LOUISIANA STATE LAW INSTITUTE

The Louisiana State Law Institute is an official advisory law revision, law reform, and legal research agency of the state, composed of attorneys, judges, and law professors. The law institute was created to promote and encourage the clarification and simplification of state law and its better adaptation to present social needs, to secure the better administration of justice, and to conduct scholarly legal research. After each legislative session, the law institute prepares the printer's copy of the official text of the enacted laws for incorporation into the Louisiana Revised Statutes and other codes.

COMMITTEES WITH CERTAIN ADMINISTRATIVE FUNCTIONS

Committees that Help Administer the Legislature

There are several legislative committees that play a role in administration of the legislature, the House, and legislative or House staff. These include the Legislative Budgetary Control Council, the House Executive Committee, the House Legislative Services Council, the Legislative Audit Advisory Council, and the Joint Legislative Committee on the Budget.

LEGISLATIVE BUDGETARY CONTROL COUNCIL

The Legislative Budgetary Control Council establishes rules to govern the administration and expenditure of all legislative branch funds. The council reviews budgetary requests for the two houses and all legislative agencies and must approve them before they are included in the legislative appropriation bill. It sets requirements for financial statements and accounting systems and for deposits and transfers of funds. It establishes printing standards for documents published by legislators and legislative agencies. Contract approval, travel expenses, and compensation for overtime work are also within its purview. Legislative facilities management is another council responsibility. The council is composed of the Senate President and President Pro Tempore; the House Speaker and Speaker Pro Tempore; the chairmen of the Senate Finance Committee, House Appropriations Committee, Senate and Governmental Affairs Committee, and House and Governmental Affairs Committee; one member of the House and Governmental Affairs Committee and one member of the Senate and Governmental Affairs Committee appointed by the respective chairman; and, ex officio but nonvoting, the House Clerk and Senate Secretary.

HOUSE EXECUTIVE COMMITTEE

The House Executive Committee is created by House Rule (*House Rule 6.26*) to make recommendations to the Speaker, other House officers, and the Committee on House and Governmental Affairs concerning internal House matters, such as space and facilities, officers and employees, rules, administration, and budgetary and financial questions. The committee also has authority to establish an annual vouchered allotment for House members, to be drawn monthly, for expenses as a House member, such as office rent, utilities, communications, supplies, and travel. The committee has 19 members, including the Speaker and the Speaker Pro Tempore and 17 members appointed by the Speaker with at least one from each congressional district.

HOUSE LEGISLATIVE SERVICES COUNCIL

(See *House Legislative Services*, beginning on page A-7.)

**LEGISLATIVE AUDIT
ADVISORY COUNCIL**

The Legislative Audit Advisory Council advises and consults with the auditor concerning his functions, duties, and responsibilities. It makes recommendations to the auditor and to the legislature. It sets the salary of the auditor and of the legislative actuary. The council reviews, may change, and must approve the budget of the office of the Legislative Auditor prior to submission to the legislature for funding. It has authority to subpoena witnesses, books, and records; to compel testimony; and to punish for contempt of the council. The council has other substantive duties related to the functions of the Legislative Auditor. The auditor must report to the council remedial action taken when an audit indicates irregularities, and district attorneys must report to the council remedial action when an audit indicates fraud or illegalities. The council has 10 members, including five House members appointed by the House Speaker and five Senators appointed by the Senate President. (See *Legislative Auditor's Office* on page A-10.)

**JOINT LEGISLATIVE
COMMITTEE ON THE
BUDGET**

The Joint Legislative Committee on the Budget has certain administrative authority with respect to the legislative fiscal office. The committee establishes the salary of the legislative fiscal officer and fills any vacancy in the office which occurs when the legislature is not in session on a temporary basis until the vacancy is filled by the legislature. The legislative fiscal officer's administrative control over the operations and functions of the office are subject to the policies and directives of the legislature and of the Joint Legislative Committee on the Budget. The legislative fiscal officer appoints and removes all employees of the legislative fiscal office and fixes all salaries upon the recommendation of the Joint Legislative Committee on the Budget. The Joint Legislative Committee on the Budget is the governing council of the legislative fiscal office for the purposes of rules and regulations adopted by the legislature to govern expenditure of legislative funds and related matters.